

BEFORE THE FEDERAL ELECTION COMMISSION

2009 DEC 15 PM 2: 55

In the **DELA**

MUR 6165
PATRIOTS FOR CRIMMINS
AND WILLIAM BABER, AS
TREASURER

CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY
SYSTEM

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

are

forwarded to the Commission with a recommendation for dismissal. The Commission has determined that pursuing low-rated matters, compared to other high-rated matters on the Enforcement docket, warrants the exercise of its prosecutorial discretion to dismiss these cases. The Office of General Counsel scored MUR 6165 as a low-rated matter.

The complainant, Barry Baron, asserts that Patriots for Crimmins and William R. Baber, in his official capacity as treasurer ("the Committee")¹ filed numerous incomplete reports with the Federal Election Commission ("the Commission"). Specifically, the complainant states that, although the Committee made periodic payments to him for political consulting services, allegedly rendered during the 2008 congressional campaign, it consistently "maintained an outstanding balance for [his] services." Nonetheless, according to the complainant, the Committee failed to disclose the monies owed to him on Line 10 of the Detailed Summary Pages of its financial disclosure reports.² Additionally, the complainant asserts that candidate Michael

¹ The Committee is the authorized campaign committee of Michael P. Crimmins, who sought to represent California's 53rd Congressional District in 2008.

² Although the complainant refers to the "Debts Owed To the Committee" line of the Detailed Summary Page, which is Line 9, presumably he is referring to the "Debts Owed By the Committee" line, which is Line 10.

1 Crimmins attempted to settle this debt in an improper and possibly illegal manner, using "email
2 internet communications." The complainant does not provide any more details regarding this
3 assertion.

4 In response, the Committee asserts that the alleged outstanding balance consists of
5 payments for the complainant's maintenance of a campaign website, which it treated as regularly
6 recurring administrative expenses such as rent, utilities, and salaries, that are not reportable as
7 debt before the payment is due, pursuant to 11 C.F.R. § 104.11(b). The Committee also disputes
8 the value of the complainant's services, but "without acknowledging any admission of liability,"
9 has amended its 2008 Year-End Report to reflect a disputed debt owed to the complainant. A
10 review of the amended report, Schedule D, shows a disputed debt, which the Committee claims
11 to be \$1 and the complainant claims to be \$1,383. The disputed debt is also disclosed on Line 10
12 of the amended report's Detailed Summary Page, and is reflected on the Committee's subsequent
13 financial disclosure reports to date. Finally, the Committee denies the allegations that
14 Mr. Crimmins acted improperly in an attempt to settle the debt.

15 In light of the fact that the Committee amended its 2008 Year-End Report to disclose the
16 disputed debt, and in furtherance of the Commission's priorities and resources, relative to other
17 matters pending on the Enforcement docket, the Office of General Counsel believes that the
18 Commission should exercise its prosecutorial discretion and dismiss the mater. *See Heckler v.*
19 *Chaney*, 470 U.S. 821 (1985).

20

21

10044261759

RECOMMENDATIONS

The Office of General Counsel recommends that the Commission dismiss MUR 6165,
close the file, and approve the appropriate letters.

Thomasenia P. Duncan
General Counsel

12/15/09
Date

BY:

Gregory R. Baker
Special Counsel
Complaints Examination
& Legal Administration

Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration

Margaret Ritzert
Attorney